



[BILLING CODE 4120-01-P]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval
South Carolina Medicaid State Plan Amendments
(SPAs) 16-0012-A, 17-0006-A, and 18-0011-A

AGENCY: Centers for Medicare & Medicaid Services (CMS),

Department of Health and Human Services (HHS).

ACTION: Notice of hearing: reconsideration of disapproval.

SUMMARY: This notice announces an administrative hearing to be held on November 20, 2019, at the Department of Health and Human Services, Division of Medicaid Field Operations, South, Centers for Medicare & Medicaid Services, Division of Medicaid and Children's Health Operations, 61 Forsyth St., Suite 4T20, Atlanta, Georgia 30303-8909 to reconsider CMS's decision to disapprove South Carolina's Medicaid SPAs 16-0012-A, 17-0006-A, and 18-0011-A.

DATES: Requests to participate in the hearing as a party must be received by the presiding officer by **[insert date 15 days after publication in the Federal Register]**.

FOR FURTHER INFORMATION CONTACT:

Benjamin R. Cohen, Presiding Officer, CMS,

1508 Woodlawn Drive, Suite 100, Baltimore,

Maryland 21207, Telephone: (410) 786-3169.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider CMS' decision to disapprove South Carolina's Medicaid state plan amendments (SPAs) 16-0012-A, 17-0006-A, and 18-0011-A, which were submitted to the Centers for Medicare & Medicaid Services (CMS) on December 21, 2016, June 28, 2017, and June 29, 2018, respectively, and disapproved on July 9, 2019. These SPAs requested CMS approval to add new eligible physicians associated with Greenville Memorial Hospital and Palmetto Health Richland to the current physician teaching supplemental payment methodology. Specifically, SPAs 16-0012-A, 17-0006-A, and 18-0011-A proposed to use amounts transferred from the Greenville Health Authority to the state Medicaid Agency for use as the non-federal share of the proposed payments. The source of the transfers would be from the "Setoff Debt Collection Program," which garnishes state individual income tax refunds to satisfy medical debt liabilities for services furnished by certain providers, rather than state or local tax revenue as required by Section 1903(w)(6)(A) of the Social Security Act. The revenue collected from the Setoff Debt Collection Program is derived from previously uncollected patient revenue.

The issues to be considered at the hearing are whether South Carolina SPAs 16-0012-A, 17-0006-A, and 18-0011-A are inconsistent with the requirements of:

- Section 1902(a)(2) of the Act, which provides that the state plan must assure adequate funding for the non-federal share of expenditures from state or local sources, such that

the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan.

- Sections 1903(a) and 1905(b) of the Act, which provide that states receive a statutorily determined Federal Medicaid Assistance Percentage (FMAP) for allowable state expenditures on medical assistance.
- Section 1903(w)(6)(A) of the Act, which allows states to use funds derived from state or local taxes, which are then transferred from units of government to the Medicaid Agency, as the non-federal share of Medicaid payments unless the transferred funds are derived by the unit of government from donations or taxes that would not otherwise be recognized as the non-federal share under section 1903 of the Act.

Section 1116 of the Act and federal regulations at 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a state plan or plan amendment. CMS is required to publish in the Federal Register a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing, and the issues to be considered. If we subsequently notify the state Medicaid agency of additional issues that will be considered at the hearing, we will also publish that notice in the Federal Register.

Any interested individual or group that wants to participate in the hearing as a party

must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled or moved, the presiding officer will notify all participants.

The notice to South Carolina announcing an administrative hearing to reconsider the disapproval of its SPAs reads as follows:

Joshua D. Baker

Director

South Carolina Department of Health and Human Services

Post Office Box 8206

Columbia, SC 29202-8206

Dear Mr. Baker:

I am responding to the request for reconsideration (dated September 5, 2019) of the decision to disapprove South Carolina's state plan amendments (SPAs) 16-0012-A, 17-0006-A, and 18-0011-A, which we received on September 6, 2019. South Carolina SPAs 16-0012-A, 17-0006-A, and 18-0011-A were submitted to the Centers for Medicare & Medicaid Services (CMS) on December 21, 2016, June 28, 2017, and June 29, 2018, respectively, and disapproved on July 9, 2019. I am scheduling a hearing on the request for reconsideration to be held on November 20, 2019 at the Department of Health and Human Services, Division of Medicaid Field Operations, South, Centers for Medicare & Medicaid Services, Division of Medicaid and Children's Health Operations, 61 Forsyth St., Suite 4T20, Atlanta, Georgia 30303-8909.

I am designating Mr. Benjamin R. Cohen as the presiding officer. If these arrangements present any problems, please contact Mr. Cohen at (410) 786-3169. In order to facilitate any

communication that may be necessary between the parties prior to the hearing, please notify the presiding officer to indicate acceptability of the hearing date and location that has been established and provide names of the individuals who will represent the State at the hearing. If the hearing date or location is not acceptable, Mr. Cohen can set another date mutually agreeable to the parties and may designate another location, with due regard for the convenience and necessity of the parties and their representatives. The hearing will be governed by the procedures prescribed by federal regulations at 42 CFR Part 430.

These SPAs requested CMS approval to add new eligible physicians associated with Greenville Memorial Hospital and Palmetto Health Richland (since merged into a single entity, Prisma Health) to the current physician teaching supplemental payment methodology. Specifically, SPAs 16-0012-A, 17-0006-A, and 18-0011-A proposed to use intergovernmental transfers from the Greenville Health Authority to the state Medicaid Agency as the non-federal share of the proposed payments.¹ The source of the transfers would be from the “Setoff Debt Collection Program,” which garnishes state individual income tax refunds to satisfy medical debt liabilities for services furnished by certain providers, rather than state or local tax revenue as required by Section 1903(w)(6)(A) of the Social Security Act (the Act). The revenue collected from the Setoff Debt Collection Program is derived from previously uncollected patient revenue.

The issues to be considered at the hearing are whether South Carolina SPAs 16-0012-A, 17-0006-A, and 18-0011-A are inconsistent with the requirements of:

- Section 1902(a)(2) of the Act, which provides that the state plan must assure adequate funding for the non-federal share of expenditures from state or local sources, such that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan.
- Sections 1903(a) and 1905(b) of the Act, which provide that states receive a statutorily determined Federal Medicaid Assistance Percentage (FMAP) for allowable state expenditures on medical assistance.
- Section 1903(w)(6)(A) of the Act, which allows States to use funds derived from State or local taxes, which are then transferred from units of government to the Medicaid Agency, as the non-federal share of Medicaid payments unless the transferred funds are derived by the unit of government from donations or taxes that would not otherwise be recognized as the non-federal share under section 1903 of the Act.

In the event that CMS and the State come to agreement on resolution of the issues that formed the basis for disapproval, these SPAs may be moved to approval prior to the scheduled hearing.

Sincerely,

¹ As reflected in the July 9, 2019 disapproval letter, CMS did not examine, or reach a conclusion with respect to, whether the Greenville Health Authority is a unit of government eligible to make an intergovernmental transfer.

Seema Verma
Administrator

cc: Benjamin R. Cohen

Section 1116 of the Social Security Act (42 U.S.C. section 1316; 42 CFR
430.18) (Catalog of Federal Domestic Assistance program No. 13.714. Medicaid
Assistance Program.)

Dated: October 4, 2019.

Seema Verma,

Administrator,

Centers for Medicare & Medicaid Services

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